

Remarks / Arguments

Claims 1- 28 are pending. Claims 27 and 28 are new claims. Please charge the fee for two additional dependent claims to the Deposit Account of the undersigned, 50-1212(10300048).

1. Drawings

The drawings were objected to as failing to comply with 37 CFR 1.84(p)(5). FIG. 1 has been amended to include a reference to engine "20." No new matter has been added. FIG. 1, as originally filed, included a reference to side wall "38."

2. Claim Rejections 35 U.S.C. §102

Claims 1-7, 10, 16-17, 20, 21, 23 and 25 were rejected under 35 U.S.C. § 102(a) as being anticipated by Tillotson et al. '112.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. M.P.E.P. §2131.

Independent claims 1, 16 and 21 of the present invention contain elements which are not found in Tillotson '112. For example, the flow control baffle of the present invention is not disclosed in Tillotson '112.

Tillotson '112 discloses a movable gate 20 which can be selectively swung or pivoted to an open position in which it forms a gap 24 in the peripheral wall 14 of the cutting chamber 4. Col. 5:3-7. Deck 2 is provided with an enclosed pocket 50 formed by top wall 12 of deck 2, a front wall 52, and the rear interior wall 54. This pocket 50 is located in front of the rearward cutting chamber 5 to accommodate the flow of clipping from chamber 4 and to receive and confine those clippings such that they fall onto the ground in an area in advance of the rearward cutting chamber 5 rather than having uncontrolled dispersion of the clippings. Col. 6: 40-46. (underlining added).

Tillotson '112 does not disclose or suggest a flow control baffle which extends into the cutting chamber and ending proximate to the side discharge opening of the cutting deck. Furthermore, there is no suggestion or motivation to extend the pivotal gate 20 to end proximate to the side discharge chute of the deck as the proposed modification would render the prior art invention unsatisfactory for its intended purposed. If the proposed modification would render the

toro response baffle.doc

prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. See, M.P.E.P §2143.01, citing In re Gordon, 733 F2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Modification of the deck of Tillotson '112 to utilize the movable flow control baffle of the present invention would render the modified gate device of Tillotson '112 unsuitable for its intended purpose as such a gate would promote an uncontrolled dispersion of the clippings through the side discharge chute.

Reconsideration of the rejection of these claims is solicited.

3. Claim Rejections 35 U.S.C. §102

Claims 1-2, 10-14, 21-22 and 25-26 were rejected under 35 U.S.C. § 102(e) as being anticipated by Schmidt et al. '358.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. M.P.E.P. §2131.

Independent claims 1, 16 and 21 of the present invention contain elements which are not found in Schmidt et al. '358. For example, the flow control baffle of the present invention is not found in Schmidt et al. '358.

Schmidt et al. '358 discloses a gate 74 which can be selectively swung or pivoted to an open position to block the passage of clippings through discharge opening 67. Col. 4: 57-58. Schmidt et al. '358 does not disclose or suggest a flow control baffle which extends into the cutting chamber and ending proximate to the side discharge opening of the cutting deck.

Furthermore, there is no suggestion or motivation to extend the gate 74 into the interior cutting deck as the proposed modification would render the prior art invention unsatisfactory for its intended purpose. If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. See, M.P.E.P §2143.01, citing In re Gordon, 733 F2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Modification of the deck of Schmidt et al. '358 to utilize the movable flow control baffle of the present invention would render the modified gate device of Schmidt et al. '358 unsuitable for its intended purpose.

Reconsideration of the rejection of these claims is solicited.

4. Claim Rejection 35 U.S.C. §103

Claims 8-9, 19 and 24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tillotson in view of Foster '205. In view of the arguments presented above, reconsideration of the rejection of the claims is solicited. The combination of Tillotson and Foster would fail to yield the present invention.

5. Claim Rejection 35 U.S.C. §103

Claims 15 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tillotson in view of Heisman et al. '495. In view of the arguments presented above, reconsideration of the rejection of the claims is solicited. The combination of Tillotson and Heisman would fail to yield the present invention.

Request for Reconsideration and Allowance

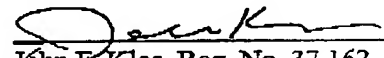
Based upon the above Amendments and Remarks, claims 1-28 are believed to be in proper form for allowance, and patentable over the prior art made of record. Applicant respectfully requests reconsideration of those claims and a prompt Notice of Allowance thereon.

Please direct any questions or comments regarding this application to John F. Klos at (612) 321-2806.

Dated this November 2, 2004.

Respectfully submitted,

The Toro Company,
by its attorneys,


John F. Klos, Reg. No. 37,162
FULBRIGHT & JAWORSKI L.L.P.
2100 IDS CENTER
80 SOUTH EIGHTH STREET
MINNEAPOLIS, MN 55402-2112

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.